

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
DOCKET NO. 5:09CR27-RLV**

UNITED STATES OF AMERICA)
)
)
v.)
)
BERNARD VON NOTHAUS)
)
_____)

In Re: PETITION OF DAN MCCLURE

ORDER GRANTING IN PART AND DISMISSING IN PART PETITION

WHEREAS, on November 10, 2014, the Court entered a Memorandum and Order (Doc. 270) affirming the jury's verdicts of guilty to Counts One, Two, and Three in the Superseding Bill of Indictment.

WHEREAS, on February 25, 2015, the Court entered the Amended (Third) Preliminary Order of Forfeiture (Doc. 297) forfeiting certain coins, metals, and other property to the United States.

WHEREAS, Dan McClure has filed a Petition, (Doc. 556), claiming five (5) ounces of silver based on warehouse receipts, and the United States has stated that it does not oppose that part of his Petition.

WHEREAS, the Petitioner has also claimed \$983.71 based on "time and expenses" and "interest charges," and the United States has moved to dismiss that part of his Petition claiming the \$983.71.

WHEREAS, THE COURT FINDS that the Petitioner's claim for \$983.71 is not a claim of a legal interest provided for under 21 U.S.C. § 853(n)(6), and, therefore, the Petitioner does not state a claim or have standing to adjudicate that part of his Petition.

NOW, IT IS THEREFORE ORDERED, pursuant to Fed. R. Crim. P. 32.2(c)(1)(A) and 21 U.S.C. § 853(n)(6), the Court grants the Petitioner's claim for five (5) ounces of silver and dismisses the Petitioner's claim for \$983.71.

IT IS FURTHER ORDERED THAT:

1. The Petitioner is ordered to send the original warehouse receipts to the United States at the address:

United States v. Bernard Von Nothaus
Attn: Thomas R. Ascik
Office of the United States Attorney
100 Otis Street, Room 233
Asheville, North Carolina 28801

2. Distribution of property by the United States to the Petitioner shall not occur until a Final Order of Forfeiture is entered by the Court.

SO ORDERED.

Signed: December 10, 2015



Richard L. Voorhees
United States District Judge

